

1 Bashir Eustache (Bar No. 241759)
2 Westland Real Estate Group
3 520 W. Willow Street
4 Long Beach, California 90806
5 Tel.: (562) 231-6591
6 E-mail: bashir.e@WestlandREG.com

7 Attorneys for Defendant DNA MANAGER, LLC

8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**

10 UNITED AFRICAN-ASIAN
11 ABILITIES CLUB, ON BEHALF OF
12 ITSELF AND ITS MEMBERS;
13 ANNA MARIE WIGGINS, An
14 Individual; ON BEHALF OF
15 ROBERT AARON MCKISSICK

16 Plaintiffs,

17 vs.

18 WESTLAND PROPERTIES SIX
19 LLC; AND DOES 1 THROUGH 10,
20 INCLUSIVE

21 Defendants.

CASE NO.: 2:23-cv-01680-ODW-AGR
**DEFENDANT WESTLAND
PROPERTIES SIX LLC' ANSWER TO
THE COMPLAINT**

22 Defendant WESTLAND PROPERTIES SIX LLC ("Answering Defendant")
23 admits and denies certain portions of the Complaint of Plaintiffs UNITED
24 AFRICAN-ASIAN ABILITIES CLUB ("UAAAC"), Anna Marie Wiggins, and
25 Robert Aaron McKissick (collectively "Plaintiffs") as follows:

26 1. Answering paragraph 1, Paragraph 1 does not contain allegations to
27 which a response is required.

28 **JURISDICTION AND VENUE**

2. Answering paragraph 2, Answer Defendant does not dispute venue.
To the extent that Paragraph 2 contains conclusions of law, Responding Party need

1 not respond.

2 **SUPPLEMENTAL JURSDICTION**

3 3. Answering paragraph 3, to the extent that Paragraph 2 contains
4 conclusions of law, Responding Party need not respond.

5 **NAMED DEFENDANTS AND NAMED PLAINTIFFS**

6 4. Answering paragraph 4, paragraph 4 does not contain allegations to
7 which a response is required.

8 5. Answer Paragraph 5, Answering Defendant lacks sufficient
9 information to admit or deny the allegations contained therein.

10 6. Answering Paragraph 6, Answering Defendant admits that it owns and
11 manages the property located at 422 S. Mariposa Avenue, Los Angeles, CA 90020.
12 Otherwise, Deny.

13 7. Answering paragraph 7, Answering Defendant admits that it does
14 business in the State of California. Answering Defendant otherwise lacks
15 sufficient information to admit or deny the allegations contained therein.

16 **FACTS**

17 8. Answering paragraph 8, Answering Defendant denies each allegation
18 therein.

19 9. Answering paragraph 9, Answering Defendant denies each allegation
20 therein.

21 10. Answering paragraph 10, Answering Defendant denies each allegation
22 therein.

23 11. Answering paragraph 11, this Answering Defendant lacks sufficient
24 knowledge or information to form a belief as to the truth of the allegations
25 contained therein and basing its denial on that ground, denies generally and
26 specifically.

27 12. Answering Paragraph 12, Answering Defendant admits that it offers
28 rental services at its website and at a physical office. Answering Defendant

1 otherwise denies the allegations contained therein.

2 13. Answering Paragraph 13, Answering Defendant admits that it offers
3 rental services at its website and at a physical office. Answering Defendant
4 otherwise denies the allegations contained therein.

5 14. Answering paragraph 14, Answering Defendant denies the allegations
6 contained therein.

7 15. Answering Paragraph 15, Answering Defendant admits that it offers
8 rental services at its website and at a physical office. Answering Defendant
9 otherwise denies the allegations contained therein.

10 16. Answering paragraph 16, denies the allegations contained therein.

11 17. Answering paragraph 17, Paragraph 17 does not contain allegations to
12 which a response is required.

13 18. Answering paragraph 18, denies the allegations contained therein.

14 19. Answering paragraph 19, Answering Defendant admits that it owns
15 and manages the property located at 422 S. Mariposa Avenue, Los Angeles, CA
16 90020. Answering defendant denies the other allegations contained therein.

17 20. Answering paragraph 20, denies the allegations contained therein.

18 21. Answering paragraph 21, denies the allegations contained therein.

19 22. Answering paragraph 22, denies the allegations contained therein.

20 23. Answering paragraph 23, denies the allegations contained therein.

21 24. Answering paragraph 24, denies the allegations contained therein.

22 25. Answering paragraph 25, denies the allegations contained therei006E.

23 26. Answering paragraph 26, denies the factual allegations contained
24 therein. Paragraph 26 otherwise contains allegations to which no response is
25 required.

26 ///

27 ///

28 ///

1 **FIRST CAUSE OF ACTION: DISCRIMINATORY PRACTICES**
2 **IN HOUSING ACCOMMODATIONS – FAIR HOUSING ACT CLAIMS**

3 27. Answering paragraph 27, to the extent that Paragraph 27 contains
4 conclusions of law, Responding Party need not respond. Answering Defendant
5 otherwise denies each and every allegation contained therein.

6 28. Answering paragraph 28, to the extent that Paragraph 28 contains
7 conclusions of law, Responding Party need not respond. Answering Defendant
8 otherwise denies each and every allegation contained therein.

9 29. Answering paragraph 29, to the extent that Paragraph 29 contains
10 conclusions of law, Responding Party need not respond. Answering Defendant
11 otherwise denies each and every allegation contained therein.

12 30. Answering paragraph 30, to the extent that Paragraph 30 contains
13 conclusions of law, Responding Party need not respond. Answering Defendant
14 otherwise denies each and every allegation contained therein.

15 31. Answering paragraph 31, to the extent that Paragraph 31 contains
16 conclusions of law, Responding Party need not respond. Answering Defendant
17 otherwise denies each and every allegation contained therein.

18 32. Answering paragraph 32, to the extent that Paragraph 32 contains
19 conclusions of law, Responding Party need not respond. Answering Defendant
20 otherwise denies each and every allegation contained therein.

21 **SECOND CAUSE OF ACTION:**
22 **VIOLATION OF CALIFORNIA FAIR HOUSING ACT**

23 33. Answering paragraph 33, to the extent that Paragraph 33 contains
24 conclusions of law, Responding Party need not respond. Answering Defendant
25 otherwise denies each and every allegation contained therein.

26 **THIRD CAUSE OF ACTION AGAINST ALL DEFENDANTS**
27 **CLAIMS UNDER THE AMERICANS WITH**
28 **DISABILITIES ACTION OF 1990**

1 34. Answering paragraph 34, to the extent that Paragraph 34 contains
2 conclusions of law, Responding Party need not respond. Answering Defendant
3 otherwise denies each and every allegation contained therein.

4 35. Answering paragraph 35, to the extent that Paragraph 35 contains
5 conclusions of law, Responding Party need not respond. Answering Defendant
6 otherwise denies each and every allegation contained therein.

7 36. Answering paragraph 36, to the extent that Paragraph 36 contains
8 conclusions of law, Responding Party need not respond. Answering Defendant
9 otherwise denies each and every allegation contained therein.

10 37. Answering paragraph 37, to the extent that Paragraph 37 contains
11 conclusions of law, Responding Party need not respond. Answering Defendant
12 otherwise denies each and every allegation contained therein.

13 38. Answering paragraph 38, to the extent that Paragraph 38 contains
14 conclusions of law, Responding Party need not respond. Answering Defendant
15 otherwise denies each and every allegation contained therein.

16 39. Answering paragraph 39, to the extent that Paragraph 39 contains
17 conclusions of law, Responding Party need not respond. Answering Defendant
18 otherwise denies each and every allegation contained therein.

19 40. Answering paragraph 40, to the extent that Paragraph 40 contains
20 conclusions of law, Responding Party need not respond. Answering Defendant
21 otherwise denies each and every allegation contained therein.

22 41. Answering paragraph 41, to the extent that Paragraph 41 contains
23 conclusions of law, Responding Party need not respond. Answering Defendant
24 otherwise denies each and every allegation contained therein.

25 42. Answering paragraph 42, to the extent that Paragraph 42 contains
26 conclusions of law, Responding Party need not respond. Answering Defendant
27 otherwise denies each and every allegation contained therein.

28 43. Answering paragraph 43, to the extent that Paragraph 43 contains

1 conclusions of law, Responding Party need not respond. Answering Defendant
2 otherwise denies each and every allegation contained therein.

3 44. Answering paragraph 44, to the extent that Paragraph 44 contains
4 conclusions of law, Responding Party need not respond. Answering Defendant
5 otherwise denies each and every allegation contained therein.

6 45. Answering paragraph 45, to the extent that Paragraph 45 contains
7 conclusions of law, Responding Party need not respond. Answering Defendant
8 otherwise denies each and every allegation contained therein.

9 46. Answering paragraph 46,

10 47. Answering paragraph 47, to the extent that Paragraph 47 contains
11 conclusions of law, Responding Party need not respond. Answering Defendant
12 otherwise denies each and every allegation contained therein.

13 **FOURTH CAUSE OF ACTION – DISCRIMINATORY PRACTICES**
14 **IN PUBLIC ACCOMODATIONS**

15 48. Answering paragraph 48, to the extent that Paragraph 48 contains
16 conclusions of law, Responding Party need not respond. Answering Defendant
17 otherwise denies each and every allegation contained therein.

18 49. Answering paragraph 49, to the extent that Paragraph 49 contains
19 conclusions of law, Responding Party need not respond. Answering Defendant
20 otherwise denies each and every allegation contained therein.

21 50. Answering paragraph 50, to the extent that Paragraph 50 contains
22 conclusions of law, Responding Party need not respond. Answering Defendant
23 otherwise denies each and every allegation contained therein.

24 51. Answering paragraph 51, to the extent that Paragraph 50 contains
25 conclusions of law, Responding Party need not respond. Answering Defendant
26 otherwise denies each and every allegation contained therein.

27 **AFFIRMATIVE DEFENSES**

28 Answering Defendant hereby alleges the following separate affirmative

1 defenses to Plaintiffs' complaint.

2 **FIRST AFFIRMATIVE DEFENSE**

3 **(Failure to State a Cause of Action)**

4 As a first separate and affirmative defense, this Answering Defendant
5 alleges that Plaintiffs' complaint and/or any of its causes of action do not state
6 facts sufficient to state a cause of action for which a remedy exists.

7 **SECOND AFFIRMATIVE DEFENSE**

8 **(Failure to State a Cause of Action)**

9 As a second separate and affirmative defense, this Answering Defendant
10 alleges that the allegations stated in Plaintiffs' complaint are ambiguous and
11 unclear, and as such, do not state a cause of action for which a remedy exists.

12 **THIRD AFFIRMATIVE DEFENSE**

13 **(Lack of Standing)**

14 As a third separate and affirmative defense, this Answering Defendant
15 alleges that Plaintiffs lack standing to challenge alleged barriers to the premises to
16 the extent that the alleged barriers did not prevent Plaintiffs from patronizing the
17 premises and utilizing the parking lot, sidewalks, shopping center, and businesses
18 contain therein, and therefore the alleged barriers did not result in any injury-in-
19 fact to the Plaintiffs.

20 **FOURTH AFFIRMATIVE DEFENSE**

21 **(Lack of Standing)**

22 As a fourth separate and affirmative defense, this Answering Defendant
23 alleges that Plaintiffs lack standing to challenge alleged barriers to premises they
24 did not visit prior to the filing of the complaint, and have no plans to patronize the
25 premises, nor any likelihood of patronizing the premises in the future.

26 **FIFTH AFFIRMATIVE DEFENSE**

27 **(Statute of Limitations)**

28 As a fifth separate and affirmative defense, this Answering Defendant

1 alleges that Plaintiffs' claims are barred by the applicable statute of limitations.

2 **SIXTH AFFIRMATIVE DEFENSE**

3 **(Contribution)**

4 As a sixth separate and affirmative defense, this Answering Defendant
5 alleges that Plaintiffs' losses, if any, (which this Answering Defendant denies and
6 makes such assumption only for the purpose of this defense) were caused or
7 contributed to by Plaintiffs and/or persons other than this Answering Defendant.
8 In the event that any act or omission of this Answering Defendant is found to have
9 contributed to said losses, Plaintiffs' recovery, if any, from this Answering
10 Defendant should be reduced by an amount proportionate to the degree of fault
11 attributable to said Plaintiffs or persons other than this Answering Defendant.

12 **SEVENTH AFFIRMATIVE DEFENSE**

13 **(Comparative Fault)**

14 As a seventh separate and affirmative defense, this Answering Defendant
15 alleges that injuries and damages Plaintiffs may have suffered (which this
16 Answering Defendant denies and makes such assumption only for the purpose of
17 this defense) which were caused by the tortious actions of persons and/or entities
18 other than this Answering Defendant, must be apportioned, reduced, or allocated in
19 direct proportion to that other entity's percentage of fault, pursuant to *Civil Code*
20 section 1431.1, *et seq.*

21 **EIGHTH AFFIRMATIVE DEFENSE**

22 **(Estoppel)**

23 As an eighth separate and affirmative defense, this Answering Defendant
24 alleges that Plaintiffs are estopped to recover herein by reason of his own acts,
25 omissions, representations and course of conduct, including violations of
26 California law.

27 ///

28 ///

NINTH AFFIRMATIVE DEFENSE

(Waiver)

As a ninth separate and affirmative defense, this Answering Defendant alleges that Plaintiffs waived their rights, if any, to assert any claim or cause of action against this Answering Defendant, based upon the facts pleaded in Plaintiffs' complaint.

TENTH AFFIRMATIVE DEFENSE

(Mitigation of Damages)

As a tenth separate and affirmative defense, this Answering Defendant alleges that Plaintiffs failed to take all reasonable steps necessary to mitigate damages, thereby barring or reducing Plaintiffs' desired recovery accordingly.

ELEVENTH AFFIRMATIVE DEFENSE

(Failure to Exercise Ordinary Care)

As an eleventh separate and affirmative defense, this Answering Defendant alleges that the alleged events, happenings, injuries, and/or damages, if any, were legally caused or contributed to by the failure of Plaintiffs to exercise ordinary care with regard to patronage at the property.

TWELFTH AFFIRMATIVE DEFENSE

(Assumption of Risk)

As a twelfth separate and affirmative defense, this Answering Defendant alleges that at all times relevant herein and on or before the date of the incidents alleged in the Verified complaint, Plaintiffs knew of and appreciated the hazards, conditions and risks involved in his conduct and the conduct of others referred to in the complaint, and thereby Plaintiffs assumed all risks attendant thereto without liability of this Answering Defendant.

THIRTEENTH AFFIRMATIVE DEFENSE

(Unclean Hands)

As a thirteenth separate and affirmative defense, this Answering Defendant

1 alleges that Plaintiffs are barred from recovery by the doctrine of unclean hands.

2 **FOURTEENTH AFFIRMATIVE DEFENSE**

3 **(Preexisting Structure)**

4 As a fourteenth separate and affirmative defense, this Answering Defendant
5 alleges that Plaintiffs' claims that the premises were constructed in violation of the
6 ADA or Title 24 are barred to the extent the premises was constructed prior to the
7 effective date of the ADA, Title 24, or their regulations.

8 **FIFTEENTH AFFIRMATIVE DEFENSE**

9 **(Equivalent Facilitation)**

10 As a fifteenth separate and affirmative defense, this Answering Defendant
11 alleges that Plaintiffs' claims are barred because, with respect to any particular
12 architectural element of the premises that depart from accessibility guidelines, the
13 premises have provided "equivalent facilitation" in the form of alternative designs
14 and technologies that provide substantially equivalent or greater access to and
15 usability of the premises.

16 **SIXTEENTH AFFIRMATIVE DEFENSE**

17 **(Good Faith Efforts)**

18 As a sixteenth separate and affirmative defense, this Answering Defendant
19 alleges that it has made good faith efforts to comply with the ADA, the Unruh Act,
20 and the California Disabled Persons Act, including providing appropriate
21 alternative access.

22 **SEVENTEENTH AFFIRMATIVE DEFENSE**

23 **(Excessive Fines)**

24 As a seventeenth separate and affirmative defense, this Answering
25 Defendant alleges that the imposition of statutory minimum damages in this matter
26 would violate this Answering Defendant's protection against excessive fines in
27 violation of Article I, Section 17 of the California Constitution and the Eighth
28 Amendment of the United States Constitution.

EIGHTEENTH AFFIRMATIVE DEFENSE

(No Upgrade Previously Required)

As an eighteenth separate and affirmative defense, this Answering Defendant alleges that it was not required by applicable laws to upgrade the property to disability standards as alleged in the complaint, prior to Plaintiffs' alleged attempted patronage at the property.

NINETEENTH AFFIRMATIVE DEFENSE

(Acts of Third Parties)

As a nineteenth separate and affirmative defense, this Answering Defendant alleges that at all times mentioned in the complaint, the injuries and damages alleged therein were either wholly or in part proximately caused by the acts and fault of persons, firms, corporations, or entities other than this Answering Defendant.

TWENTIETH AFFIRMATIVE DEFENSE

(Indemnity)

As a twentieth separate and affirmative defense, this Answering Defendant alleges that in the event Plaintiffs should be awarded judgment against this Answering Defendant in any manner or any amount by virtue of the complaint, this Answering Defendant is entitled to indemnity for such amounts from those parties, including those who are presently unknown or unidentified, who were primarily responsible for such damages.

TWENTY-FIRST AFFIRMATIVE DEFENSE

(Independent Intervening Cause)

As a twenty-first separate and affirmative defense, this Answering Defendant alleges that any damages sustained by Plaintiffs (which this Answering Defendant denies, and makes such assumption only for the purpose of this defense) were caused by the actions and/or omissions of someone other than this Answering Defendant, over whom this Answering Defendant had no control.

1 **TWENTY-SECOND AFFIRMATIVE DEFENSE**

2 **(No Cognizable Injury or Damages)**

3 As a twenty-second separate and affirmative defense, this Answering
4 Defendant alleges that no damages or other cognizable injury were sustained by
5 Plaintiffs.

6 **TWENTY-THIRD AFFIRMATIVE DEFENSE**

7 **(No Pre-Litigation Notice)**

8 As a twenty-third separate and affirmative defense, this Answering
9 Defendant alleges that Plaintiffs failed to give pre-litigation notice of the alleged
10 defects.

11 **TWENTY-FOURTH AFFIRMATIVE DEFENSE**

12 **(Equitable Claims Barred)**

13 As a twenty-fourth separate and affirmative defense, this Answering
14 Defendant alleges that Plaintiffs' claims in equity are barred, in whole or in part,
15 because Plaintiffs' legal remedies are adequate.

16 **TWENTY-FIFTH AFFIRMATIVE DEFENSE**

17 **(Attorneys' Fees Barred)**

18 As a twenty-fifth separate and affirmative defense, this Answering
19 Defendant alleges that Plaintiffs are not entitled to recover attorneys' fees or costs
20 from Answering Defendant because Plaintiffs' complaint did not cause any change
21 in conduct, policy or procedure, and Plaintiffs cannot establish that Answering
22 Defendant violated any statute entitling Plaintiffs to an award of attorneys' fees or
23 costs. Alternatively, such an award should be barred or reduced to the extent they
24 were not reasonably incurred, were incurred at an excessive rate, or were incurred
25 with respect to others' fault.

26 **TWENTY-SIXTH AFFIRMATIVE DEFENSE**

27 **(Attorneys' Fees Waived by Plaintiffs)**

28 As a twenty-sixth separate and affirmative defense, this Answering

1 Defendant alleges that Plaintiffs explicitly waived any recovery of attorneys' fees
2 under California *Code of Civil Procedure* section 1021.5 and/or the private
3 attorney general doctrine by disclaiming such fees in the complaint, specifically at
4 page six, footnote one.

5 **TWENTY-SEVENTH AFFIRMATIVE DEFENSE**

6 **(Improper Defendant)**

7 As a twenty-seventh separate and affirmative defense, this Answering
8 Defendant alleges that it is not legally responsible for property that is not within its
9 possession, custody or control.

10 **PRAYER**

11 WHEREFORE, this Answering Defendant prays for judgment as follows:


- 12 1. That Plaintiffs' complaint be dismissed with prejudice and Plaintiffs
13 take nothing thereby;
- 14 2. For costs of suit incurred herein, including attorneys' fees; and
- 15 3. For such other further relief as the Court may deem just and proper.

16 **DEMAND FOR JURY TRIAL**

17 This Answering Defendant hereby demands a trial by jury for all claims for
18 which a jury trial is permitted.

19
20 DATED: May 3, 2023

WESTLAND REAL ESTATE GROUP

21
22 By: 
23 BASHIR EUSTACHE
24 Attorneys for Defendant
25 Westland Properties Six LLC
26
27
28